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Report of the Security Council

Question of equitable representation on and increase in the membership of the Security Council and related matters

Letter dated 15 November 2012 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the pleasure to write to you in my capacity as Chair of the Coordinating Bureau of the Non-Aligned Movement concerning the open debate of the Security Council on the working methods of the Security Council, to be held on Monday, 26 November 2012.

In order to have a rich debate on the subject matter on 26 November, which could lead to the achievement of our mutual goal of further improving the working methods of the Security Council, I am attaching herewith, for your consideration and the consideration of the members of the General Assembly and the Security Council, the position of the Non-Aligned Movement concerning the working methods of the Security Council as stipulated in the relevant paragraphs of the final document (A/67/506-S/2012/752, annex I), adopted by the Sixteenth Conference of Heads of State or Government of Non-Aligned Countries, held in Tehran from 26 to 31 August 2012 (see annex).

In this regard, and with a view to assisting the Security Council in its efforts to achieve the desired progress in reforming the working methods of the Council, I stress the importance that the Non-Aligned Movement attaches to having its positions taken into consideration in any possible outcome of the open debate of the Security Council.

I would highly appreciate if the present letter and its annex could be circulated as a document of the General Assembly, under agenda items 30 and 117, and of the Security Council.

(*Signed*) Mohammad **Khazaee**
Ambassador
Permanent Representative
Islamic Republic of Iran

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Annex to the identical letters dated 15 November 2012 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council

Position of the Non-Aligned Movement concerning the working methods of the Security Council as stipulated in the relevant paragraphs of the final document (A/67/506-S/2012/752, annex I) adopted by the Sixteenth Conference of Heads of State or Government of Non-Aligned Countries, held in Tehran from 26 to 31 August 2012

29 The Heads of State or Government expressed their serious concern and complete dismay at the victimization of innocent civilians in instances where force has been employed or sanctions have been imposed, including those authorized by the Security Council. In the spirit of the Charter of the United Nations, they called on all States to advance the principle of the non-use of force and peaceful settlement of disputes as a means of achieving collective security rather than the threat of force or use of force, bearing in mind "that armed force shall not be used, save in the common interest" as stipulated in the Charter.[1]

77.5 The Heads of State or Government stressed the central role of the United Nations in global governance and that it could only be achieved through strictly observing the delicate balance in the Charter between the principal organs of the United Nations, revitalizing the work of the General Assembly and the Economic and Social Council, and the reform of the Security Council, including its expansion, democratization, improving its transparency, accountability and working methods;

80 The Heads of State or Government underscored the need for United Nations Member States to fully respect the functions and powers of each principal organ of the United Nations, in particular the General Assembly, and to maintain the balance among these organs within their respective Charter-based functions and powers. They stressed that the Security Council must fully observe all Charter provisions as well as all General Assembly resolutions which clarify its relationship with the latter organ and other principal organs. In this context, they affirmed that Article 24 of the Charter does not necessarily provide the Security Council with the competence to address issues which fall within the functions and powers of the General Assembly and the Economic and Social Council, including in the areas of norm-setting, legislation, administrative and budgetary matters, and establishing definitions, bearing in mind that the Assembly is primarily tasked with the progressive development of international law and its codification.[2] The Heads of State or Government expressed their grave concern over the increasing and continuing encroachment by the Council on issues which clearly fall within the functions and powers of other principal organs of the United Nations and their subsidiary bodies. They further stressed that close cooperation and coordination among all principal organs is highly indispensable in order to enable the United Nations to remain relevant and capable of meeting the existing, new and emerging threats and challenges.

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[1] Charter of the United Nations, preamble.

[2] In accordance with Article 13 (1) of the Charter of the United Nations.

81 The Heads of State or Government stressed that while Member States have conferred on the Security Council the primary responsibility for the maintenance of international peace and security pursuant to Article 24 (1) of the Charter and in carrying out its duties under this responsibility, the Council acts on their behalf. In this context, they further stressed that the Council should report and be accountable to the General Assembly in accordance with Article 24 (3) of the Charter.

82 The Heads of State or Government reiterated their concern over the continuing encroachment by the Security Council on the functions and powers of the General Assembly and the Economic and Social Council through addressing issues which traditionally fall within the competence of the latter organs, and the attempts to enter areas of norm-setting, administrative and budgetary matters and establishing definitions which fall within the purview of the Assembly. They further expressed concern over the constant attempts by the Security Council to use thematic issues under its consideration to expand its mandate into areas which do not pose a threat to international peace and security, and further urged the Council to confine to its mandate in accordance with the Charter provisions.

83 Consistent with and guided by the aforementioned principled positions and affirming the need to defend, preserve and promote these positions, the Heads of State or Government will continue to undertake the following measures, among others:

83.1 Urge all States to uphold the primacy of and full respect for the provisions of the Charter pertaining to the functions and powers of the Assembly, call on the Presidents of the General Assembly, the Economic and Social Council and the Security Council to conduct regular discussions and coordination among themselves regarding the agenda and programme of work of the respective principal organs that they represent in order to establish increased coherence and complementarity among these organs in a mutually reinforcing manner, respectful of each others' mandates, and with a view to generating a mutual understanding among them, with whom the members of the respective organs that they represent have vested in good faith their trust and confidence;

83.2 Welcome as a step forward the informal meetings between the July presidencies of the Council, and United Nations Member States on the preparation of the annual report of the Security Council, including those convened by the Socialist Republic of Viet Nam in 2008, Uganda in 2009, Nigeria in 2010, Germany in 2011 and Colombia in 2012, and call for more regular interactions between future July presidencies of the Security Council and the wider membership of the United Nations, which can help enhance the quality of such reports;

83.3 Call on the Security Council to submit a more explanatory, comprehensive and analytical annual report to the General Assembly, assessing the work of the Council, including such cases in which the Council has failed to act, and the views expressed by its members during the consideration of the agenda items under its consideration; and further call on the Security Council to elaborate the circumstances under which it adopts different outcomes whether resolutions, presidential statements, press statements or elements to the press;

83.4 Call on the Security Council, pursuant to Articles 15 (1) and 24 (3) of the Charter, to submit special reports for the consideration of the General Assembly;

83.5 Call on the Security Council to ensure that its monthly assessments are comprehensive and analytical, and issued in a timely fashion. The General Assembly may consider proposing parameters for the elaboration of such assessments;

83.6 Call on the Security Council to fully take into account the recommendations of the General Assembly on matters relating to international peace and security, consistent with Article 11 (2) of the Charter;

83.7 Oppose and stop ongoing attempts to shift issues under the agenda of the General Assembly or the Economic and Social Council to the Security Council, and the encroachment by the latter on the functions and powers of the Assembly.

89 [...] the Heads of State or Government agreed that formal presentation of candidatures for the position of Secretary-General should be done in a manner that allows sufficient time for interaction with Member States in the General Assembly and the Security Council, and requested that, during the selection process of the Secretary-General, the President of the General Assembly convene a meeting of the General Assembly for an exchange of views and dialogue with all candidates;

91 The Heads of State or Government reaffirmed and underscored the validity and relevance of the Movement's principled positions concerning the question of equitable representation on and increase in the membership of the Security Council, and other matters related to the Security Council, in particular the directives of the Movement adopted at its eleventh, twelfth, thirteenth, fourteenth and fifteenth Summits, which have been reflected in the Movement's position and negotiating papers, and the decisions of the Ministerial Conferences and Meetings, as follows:

91.1 The Movement, while noting with appreciation efforts undertaken, notes with concern the lack of concrete results in the intergovernmental negotiations in the informal plenary of the General Assembly on the question of equitable representation on and increase in the membership of the Security Council, and other matters related to the Council, based on General Assembly decisions 62/557, 63/565, 64/568 and 65/554, and notes that the negotiations have shown that while a convergence of views has emerged, major differences still exist, and while there have been some improvements made to the working methods of the Council, they have not satisfied even the minimum expectations of the general membership of the United Nations, leaving much room for improvement;

91.2 In this context, the Heads of State or Government reiterated that General Assembly decision 62/557 is and shall continue to be the basis of intergovernmental negotiations on the Security Council reform;

91.3 Reform of the Security Council should be comprehensive, addressing all substantive issues relating, inter alia, to the question of the membership, regional representation, the Council's agenda, its working methods and decision-making process, including the veto, and should garner the widest possible political acceptance by Member States in line with the provisions of

the Charter and relevant General Assembly decisions, particularly decision 62/557;

91.4 In recent years, the Security Council has been too quick to threaten or authorize enforcement action in some cases while being silent and inactive in others. Furthermore, the Council has been increasingly resorting to Chapter VII of the Charter as an umbrella for addressing issues that do not necessarily pose an immediate threat to international peace and security. A careful review of these trends indicates that the Council could have opted for alternative provisions to respond more appropriately to particular cases. Instead of excessive and quick use of Chapter VII, efforts should be made to fully utilize the provisions of Chapters VI and VIII for the pacific settlement of disputes. Chapter VII should be invoked, as intended, as a measure of last resort. Unfortunately, provisions of Articles 41 and 42 in some cases have been too quickly resorted to, while the other options had not been fully exhausted;

91.5 The Security Council-imposed sanctions remain an issue of serious concern to Non-Aligned Countries. In accordance with the Charter, sanctions should be considered to be imposed only after all means of peaceful settlement of disputes under Chapter VI of the Charter have been exhausted and a thorough consideration undertaken of the short-term and long-term effects of such sanctions. Sanctions are a blunt instrument, the use of which raises fundamental ethical questions of whether sufferings inflicted on vulnerable groups in the target country are legitimate means of exerting pressure. The objectives of sanctions are not to punish or otherwise exact retribution on the populace. In this regard, the objectives of sanctions regimes should be clearly defined, and that its imposition should be for a specified time frame and be based on tenable legal grounds, and that it should be lifted as soon as the objectives are achieved. The conditions demanded of the State or party on which sanctions are imposed should be clearly defined and subject to periodic review. Sanctions should be imposed only when there exists a threat to international peace and security or an act of aggression, in accordance with the Charter, and that it is not applicable "preventively" in instances of mere violation of international law, norms or standards. Targeted sanctions may be a better alternative so long as the population of targeted State concerned is not victimised whether directly or indirectly;

91.6 Transparency, openness and consistency are key elements that the Security Council should observe in all its activities, approaches and procedures. Regrettably, the Council has neglected these important factors on numerous occasions. Such instances include unscheduled open debates with selective notification, reluctance in convening open debates on some issues of high significance, repeatedly restricting participation in some of the open debates and discriminating between members and non-members of the Council, particularly with regard to sequencing and time limits of statements during the open debates, failure to submit special reports to the General Assembly as required under Article 24 of the Charter, submission of annual reports still lacking sufficient information and analytical content, and lack of minimal parameters for the elaboration of the monthly assessment by the Security Council presidencies. The Council must comply with the provisions of Article 31 of the Charter, which allow any non-Council member to participate in discussions on matters affecting it. Rule 48 of the provisional

rules of procedure of the Council should be thoroughly observed. Closed meetings and informal consultations should be kept to a minimum and as the exception they were meant to be;

91.7 The reform of the Security Council should be addressed in an early, comprehensive, transparent and balanced manner, without setting artificial deadlines. It should ensure that the agenda of the Council reflects the needs and interests of both developing and developed countries, in an objective, rational, non-selective and non-arbitrary manner;

91.8 The enlargement of the Council, as a body primarily responsible for the maintenance of international peace and security, and the reform of its working methods should lead to a democratic, more representative, more accountable and more effective Council;

91.9 The rules of procedure of the Security Council, which have remained provisional for more than 60 years, should be formalized in order to improve its transparency and accountability;

91.10 The Heads of State or Government acknowledge the historical injustices against Africa with regard to its representation in the Security Council and expressed support for increased and enhanced representation for Africa in the reformed Security Council. The Heads of State or Government took note of the African common position as reflected in the Ezulwini Consensus and the Sirte Declaration;

92.2 Call on the Security Council to allow briefings by the Special Envoys or Representatives of the Secretary-General and the United Nations Secretariat to take place in public meetings, unless in exceptional circumstances;

92.3 Call on the Security Council to further enhance its relationship with the United Nations Secretariat and troop-contributing countries, including through a sustained, regular and timely interaction. Meetings with troop-contributing countries should be held not only in the drawing up of mandates, but also in their implementation, when considering a change in, or renewal of, or completion of a mission mandate, or when there is a rapid deterioration of the situation on the ground. In this context, the Security Council Working Group on Peacekeeping Operations should involve troop-contributing countries more frequently and intensively in its deliberations, especially in the very early stages of mission planning;

92.4 Call upon the Security Council to uphold the primacy of and respect for the Charter in connection with its functions and powers, and stresses once again that the decision by the Security Council to initiate formal or informal discussions on the situation in any Member State of the United Nations or any issue that does not constitute a threat to international peace and security is contrary to Article 24 of the Charter;

92.5 Call on the Council to establish its subsidiary organs in accordance with the letter and spirit of the Charter, and that these organs should function in a manner that would provide adequate and timely information on their activities to the general United Nations membership;

92.6 Reject the use of the Security Council as a tool to pursue national political interests and agenda aggravating rather than alleviating situations contrary to its mission enshrined in the Charter, and stress the necessity of non-selectivity,

impartiality and accountability in the work of the Council, and the need for the Council to strictly keep within the powers and functions accorded to it by the Member States under the Charter;

92.7 Urge the Council to avoid resorting to Chapter VII of the Charter as an umbrella for addressing issues that do not necessarily pose a threat to international peace and security, and to fully utilize the provisions of other relevant Chapters, where appropriate, including Chapters VI and VIII, before invoking Chapter VII, which should be a measure of last resort, if necessary;

92.8 Oppose attempts through the imposition or prolongation of sanctions or their extension by the Security Council against any State under the pretext or with the aim of achieving the political objectives of one or a few States, rather than in the general interest of the international community;

111 The Heads of State or Government expressed concern at several instances in which the Security Council denied the coordinator of the NAM Caucus in the Peacebuilding Commission (PBC) an opportunity to address members of the Security Council on matters related to the competence of the Commission. They urged the Security Council, the General Assembly and the Economic and Social Council to utilize the expertise of the PBC, including the coordinator of the NAM Caucus of the PBC, as the representative of the largest grouping within the PBC, by ensuring participation in discussions on all issues of relevance to, or falling within, the competence of the PBC. Furthermore, they stressed the necessity to promote the institutional relation between the PBC and the General Assembly, the Security Council and the ECOSOC.